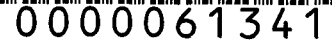


FORMAL COMPLAINT

[illegible]

GROUND FOR COMPLAINT:

This complaint is being submitted as the result of an Application for Residential Water Service being denied by the Payson Water Company, Inc.

On May 5, 2006, the Arizona Corporation Commission (ACC) issued an order authorizing the Payson Water Co., Inc. to provide a service connection to the Whispering Pines Fire District and to eight additional customers in the Geronimo Estates and Elusive Acres subdivisions, as part of the Geronimo System, conditioned on compliance with the recommendations set forth in the staff report and discussed within the Opinion and Order, Decision number 68696, Docket number W-03514A-05-0729.

On July 25, 2006, I was contacted by representatives of the ACC and advised that I had been selected to receive the eighth and last water meter approved under the Decision for installation within the Geronimo Estate Water System. Subsequent to that date, I had spoken with representatives from the Payson Water Company regarding the procedures established in having the water meter installed. As directed, I provided the Payson Water Co., Inc. with the required information and documentation within the timelines provided.

On September 14, 2006, I was contacted by representatives of the Payson Water Co., Inc. who advised me that a site survey had been conducted and it was determined that my property was not "adjacent" to where a water main currently existed. Based on that determination, my Application for Residential Water Service was being denied. I was given until the close of business September 22, 2006 to obtain a resolution from the ACC in the form of a letter approving, denying or pending the matter. If a letter was not received from the ACC approving or pending the matter, the meter would be given to the next person on the established waiting list, with no additional water meters available.

On subsequent dates, I met with representatives of the ACC regarding the denial of my Application for Residential Water Service with a pending deadline imposed by the Payson Water Co., Inc. of September 22, 2006.

On September 21, 2006, I was advised by the ACC to file a Formal Complaint against the Payson Water Co., Inc. with the ACC.

The aforementioned Opinion and Order reads "limited to lots where a main currently exists to serve those lots". (See Decision No. 68696, page 10, Resolution No. 23, lines 18-19 and the first Ordering paragraph page 12, line 11).

I own lot 25 and lot 26 in Geronimo Estates Unit Two. My Application for Residential Water Service was submitted for service to lot 26 with the remote meter to be installed through an established utility easement on lot 56 in Geronimo Estates, Unit Three.

It is my understanding, and through some confirmation from the Payson Water Co., Inc. that the properties on the east side of Munsee Drive adjacent to my property to the south (Geronimo Estates Unit Two lot 27 and Geronimo Estates Unit Two lot 28 and the only

and last lot on the east side of Munsee Drive to my north (lot number unknown) have been and are currently being served by the same "main" described above. The main on Paint Pony Drive serves these lots through the same remote water meter installations that I requested and was granted by the ACC but denied by the Payson Water Co., Inc.

It appears that these meters were installed prior to the decision, and possibly prior to the ownership of the Geronimo Estates Water System by the Payson Water Co., Inc. Regardless, these meters exist, and they exist as a part of the Geronimo Estates Water System. When they were put in and who owned the company at the time is irrelevant. I am confident that both the ACC and the Payson Water Co., Inc were aware of their existence in reviewing the data contained within the proceedings regarding number of meters/connections within the Geronimo Estates Water System. On June 16, 2006 the Payson Water Co., Inc filed a Compliance Report with the ACC listing the customer count regarding the current meter distribution within the Geronimo Estates Water System on which the Decision was based.

These meters have been and are currently being serviced by the Payson Water Co. Inc. and are connected to the main described above that currently exists to serve those lots and therefore are part of the Geronimo Estates Water System.

This is the same main that I have requested Residential Water Service. Failure to provide service to Geronimo Estates, Unit Two lot 26 is a clearly an example of a service configuration bias.

In my limited amount of time to research and file this complaint, I was unable to located anywhere in the filed documents by the ACC or the Payson Water Co., Inc., any language using "adjacent" or anything comparable as a condition to receive residential water service under the Decision. In addition, documents filed by the Payson Water Co., Inc. on June 15, 2006, subsequent to the decision by the ACC, reminded the ACC that the Decision provided for two additional qualifying criteria of all customers allocated meters in the water system. These criteria included:

- (a) "limited to lots where a main currently exists to serve those lots". (See Decision No. 68696, page 10, Resolution No. 23, lines 18-19 and the first Ordering paragraph page 12, line 11)".
- (b) "subject to new customers obtaining a building permit from Gila Count within 90 days for a permanent residential dwelling unit." (see Decision 68696, second Ordering paragraph, lines 13-14)".

Additionally, the self imposed deadline by the Payson Water Co., Inc. did not allow me or anyone else enough time to file a formal complaint and complete the process established by the ACC prior to the Payson Water Co., Inc. releasing the meter approved by the ACC. Under these time constraints, the established process does not allow me the opportunity to present my case through the formal channels provided and directed by your office.

NATURE OF RELIEF SOUGHT:

Immediately and no later than close of business September 22, 2006 (pacific time), provide the Payson Water Co., Inc. with the required notification to suspend the allocation of the final meter until such time as this matter can given the opportunity to complete the formal complaint process provided.

or

Provide relief of the service configuration bias by installing a remote water meter as approved by the ACC on Geronimo Estates Unit Three lot 56 for service to Geronimo Estates Unit Two lot 26 as applied.

or

Provide relief of the service configuration bias by extending the main line south along Munsee Drive to provide an adjacent main to all of those lots currently being served by the main line through remote meters to include Geronimo Estates Unit Two lot 26 as applied.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOCKETED

MAY 05 2006

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

DOCKETED BY

AM

IN THE MATTER OF THE APPLICATION OF
THE WHISPERING PINES FIRE DISTRICT FOR
A VARIANCE TO THE MORATORIUM ON NEW
SERVICE CONNECTIONS FOR PAYSON
WATER COMPANY'S GERONIMO SYSTEM.

DOCKET NO. W-03514A-05-0729

DECISION NO. 68696

OPINION AND ORDER

DATE OF HEARING:

February 8, 2006

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Dwight D. Nodes

APPEARANCES:

Mr. Robert T. Hardcastle, Brooke Utilities, Inc., on
behalf of Payson Water Company;

Mr. Randall Kincaid, in propria persona;

Mr. James Dye, in propria persona;

Mr. James Dunne, in propria persona;

Mr. John Swanson, in propria persona;

Mr. Steve Prahin, in propria persona;

Mr. Joseph Stapp, in propria persona;

Mr. David Mayne, in propria persona; and

Mr. David Ronald, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

On April 11, 2005, the Arizona Corporation Commission ("Commission") issued Decision No. 67747. That Decision granted a variance to the existing moratorium on new water service connections for Payson Water Company's Geronimo System ("Payson Water" or "Company") to a single customer, but directed that no additional variances would be granted until the Company had conducted a 12-month system monitoring exercise to determine available system capacity.

1 In Decision No. 68232 (October 25, 2005), the Commission denied a prospective customer's
2 request for a variance to the moratorium, without prejudice (Docket No. W-03514A-05-0352).
3 During the October 18, 2005 Open Meeting discussion regarding Docket No. W-03514A-05-0352,
4 the Commission directed the Utilities Division Staff ("Staff") to explore whether the 12-month water
5 usage study could be shortened in order to accommodate a request for service by the Whispering
6 Pines Fire District ("WPF") made prior to the Open Meeting. During the discussion,
7 Commissioners also suggested that other customer service requests should be considered in the
8 context of a new docket to be opened to consider the WPF variance request.

9 On October 19, 2005, Harry D. Jones, on behalf of the WPF, filed in the above-captioned
10 docket a request for a variance from the existing moratorium on new service connections.

11 By Procedural Order issued November 7, 2005, Staff was directed to contact the Company to
12 review the status of the system monitoring exercise ordered in Decision No. 67747 in order to
13 determine whether it is reasonable to shorten the system monitoring exercise for purposes of
14 evaluating available system capacity. Staff was also directed to prepare a Staff Report by November
15 21, 2005 that included, at a minimum, a recommendation regarding available capacity and whether it
16 is in the public interest to grant additional variances to the current moratorium.

17 On November 21, 2005, Staff filed a Staff Report. On the same date, Staff filed a Request to
18 Withdraw the Staff Report. In its Request to Withdraw, Staff stated that it had "learned that some of
19 the critical information that Payson Water provided to Staff was not accurate." Staff further indicated
20 that it intended to file a corrected Staff Report as soon as possible after receiving correct information
21 from the Company.

22 After issuance of the November 7, 2005 Procedural Order, the following requests for
23 intervention were filed in this docket: Joe Brown, on behalf of the Geronimo Properties
24 Homeowners Association (November 18 and 21, 2005); Daniel and Jody Welsch (November 18 and
25 22, 2005); Jim Dunne (November 21 and 22, 2005); Steven Prahin (November 21, 2005); Jerry and
26 Marda Larson (November 21, 2005); Randy Bonds (November 21, 2005); John Swanson (November
27 21, 2005); Randall Kincaid (December 6, 2005); and James Dye (December 6, 2005).

28 On December 21, 2005, Staff filed its Revised Staff Report. Based on the information

1 available to Staff, it concluded that the Geronimo System currently has 77 active meters, and 6
 2 additional meters are inactive, have no usage, or have been pulled. Staff believes the system could
 3 support up to 92 total connections and Staff suggested several options for the Commission to consider
 4 for allowing additional service connections depending on assumptions regarding the inactive meters.
 5 Staff also recommended that the WPFDD should be given the highest priority for connection to the
 6 system, and that additional connections should be granted on a first-come first-served basis. Staff
 7 further recommended that Payson Water should be ordered to immediately begin searching for new
 8 water sources, and should investigate two possible water sources identified by the WPFDD.

9 By Procedural Order issued January 4, 2006, this matter was scheduled for hearing on
 10 February 8, 2006, and Payson Water was directed to mail notice to each of the affected customers and
 11 publish notice in a newspaper of general circulation in its service area. The January 4, 2006
 12 Procedural Order also granted intervention to the following persons: Joe Brown; Daniel and Jody
 13 Welsch; Jim Dunne; Steven Prahin; Jerry and Marda Larson; Randy Bonds; John Swanson; Randall
 14 Kincaid; and James Dye¹.

15 The Company filed the requisite affidavits of mailing and publication on January 20, 2006
 16 and February 7, 2006, respectively.

17 The hearing was conducted as scheduled on February 8, 2006. At the hearing, Harry Jones
 18 and WPFDD Fire Chief Mark Essary offered testimony on behalf of the WPFDD. Sworn testimony was
 19 also given by the following persons: Randall Kincaid; James Dye; James Dunne; John Swanson;
 20 Steve Prahin; Joseph Stapp; David Mayne; Irene Medina; Rollin Carlblom; Clifford Potts; and
 21 Roland Spokely. Staff witness Steve Olea testified in support of Staff's position and Robert
 22 Hardcastle offered testimony on behalf of Payson Water.

23 * * * * *

24 Having considered the entire record herein and being fully advised in the premises, the
 25 Commission finds, concludes, and orders that:

26 ...

27
 28 ¹ Joseph Stapp and David Mayne were granted intervention at the February 8, 2006 hearing.

FINDINGS OF FACT**Background of Payson Water's Geronimo System**

1. A moratorium on new service connections was implemented by Decision No. 57584 (October 11, 1991), which limited the former United Utilities, Inc. ("United") Geronimo System to serving no more than 60 service connections. The Geronimo System had previously been limited to no more than 45 service connections pursuant to Decision No. 52454 (September 18, 1981).

2. Decision No. 57584 directed United to submit an engineering and design study to explain the steps that would be undertaken in the Geronimo System to permanently lift the moratorium. Although United's former owner, Mr. Richard Williamson, submitted a study on December 10, 1991, Staff found that the study did not contain necessary technical data to demonstrate a sufficient availability of water to justify lifting the 60 service connection limit.

3. According to the Staff Report filed in Docket No. W-01993A-04-0428², United submitted a letter on February 8, 1996 stating that the Geronimo System was serving 66 service connections as of December 1995. The letter received by Staff claimed that only 61 connections were being served by the Geronimo System and the other five customers were part of a separate system called Elusive Acres, which United asserted was not subject to the moratorium. However, Staff stated its belief that the Geronimo Estates and Elusive Acres subdivisions were being served by a single water system and both subdivisions were therefore subject to the moratorium.

4. Staff also stated in that prior Staff Report that it sent a letter to Mr. Williamson on March 1, 1996 informing him that the Geronimo System was in violation of the 60 connection limit. Staff directed Mr. Williamson to conduct a system monitoring study over a 12-month period and to submit the results of the study. The Staff Report indicated that Staff intended to evaluate the monitoring study to determine if the moratorium could be amended. However, Mr. Williamson never submitted the required study.

5. In Decision No. 60972 (June 19, 1998), Brooke Utilities, Inc. ("Brooke Utilities") was authorized to acquire United from Richard Williamson, and United was organized into three

² This docket involved a prior request for variance from the Payson Water moratorium and resulted in Decision No. 67747 (April 11, 2005).

1 operating companies: Payson Water Company; Strawberry Water Co., Inc.; and Tonto Basin Water
2 Co., Inc. Payson Water serves the Geronimo Estates subdivision and the Elusive Acres subdivision
3 as a single system.

4 6. In Decision No. 67747 (April 11, 2005), the Commission granted a variance to the
5 moratorium to one customer, subject to the requirement that Payson Water conduct a system
6 monitoring exercise for 12 months following the effective date of that Decision, and that the
7 Company submit the following data based on the study: monthly static water levels from both wells;
8 number of gallons pumped per month from each well; number of gallons sold per month; and number
9 of active and inactive connections per month. In that Decision, the Commission specifically stated
10 that "no additional new service connections shall be permitted on the Geronimo System until the data
11 is received and reviewed by Staff, and an Order is issued by the Commission allowing additional
12 service connections, unless otherwise ordered by the Commission" (Decision No. 67747, at 5).

13 7. As stated in Decision No. 67747, the water monitoring study requested in 1996 was
14 never submitted. According to Staff, Payson Water was not aware of the 1996 letter from Staff
15 because the transfer of ownership from United to Brooke Utilities/Payson Water was in the process at
16 that time. In response to Staff data requests in that proceeding, Payson Water submitted Water Use
17 Data Sheets for the Geronimo System showing 68 service connections and 73 active accounts³, and a
18 "Consumption by Customer" spreadsheet (*Id.* at 3).

19 8. In Decision No. 68232 (October 25, 2005), the Commission denied a request by
20 Steven Prahin, without prejudice, for a variance to the current moratorium on new service
21 connections for the reasons set forth in Decision No. 67747 (*i.e.*, that no additional connections
22 should be permitted until a full year's water usage data was obtained and evaluated by Staff and the
23 Commission). During the October 18, 2005 Open Meeting discussion regarding Docket No. W-
24 03514A-05-0352, the Commission directed Staff to explore whether the 12-month water usage study
25 could be shortened in order to accommodate a request for service by the WPFd made prior to the
26 Open Meeting. During the discussion, Commissioners also suggested that other customer service

27 ³ The data provided to Staff showed that, during the peak usage month, the Geronimo System had 73 active accounts – 61
28 accounts that used water and 12 accounts that had no usage (Decision No. 67747, at 3).

1 requests should be considered in the context of a new docket to be opened to consider the WPFD
2 variance request.

3 **Procedural History of WPFD's Application**

4 9. As described above, on October 19, 2005, Harry D. Jones, on behalf of the WPFD,
5 filed in the above-captioned docket a request for a variance from the existing moratorium on new
6 service connections.

7 10. By Procedural Order issued November 7, 2005, Staff was directed to contact the
8 Company to review the status of the system monitoring exercise ordered in Decision No. 67747 in
9 order to determine whether it is reasonable to shorten the system monitoring exercise for purposes of
10 evaluating available system capacity. Staff was also directed to prepare a Staff Report by November
11 21, 2005 that included, at a minimum, a recommendation regarding available capacity and whether it
12 is in the public interest to grant additional variances to the current moratorium.

13 11. On November 21, 2005, Staff filed a Staff Report. On the same date, Staff filed a
14 Request to Withdraw the Staff Report. In its Request to Withdraw, Staff stated that it had "learned
15 that some of the critical information that Payson Water provided to Staff was not accurate." Staff
16 further indicated that it intended to file a corrected Staff Report as soon as possible after receiving
17 correct information from the Company.

18 12. Intervention was granted to the following persons: Joe Brown; Daniel and Jody
19 Welsch; Jim Dunne; Steven Prahin; Jerry and Marda Larson; Randy Bonds; John Swanson; Randall
20 Kincaid; James Dye; Joseph Stapp; and David Mayne.

21 **Geronimo System Usage and Capacity**

22 13. In its Amended Staff Report (Ex. S-1), Staff indicated that its on-site inspection
23 revealed 83 connections on the Payson Water Geronimo System (70 in Geronimo Estates and 13 in
24 Elusive Acres). According to Staff, of the 70 connections in Geronimo Estates, two have had the
25 meters pulled and two are inactive, for a net of 66 active meters. Staff also found that two meters
26 were inactive in Elusive Acres. Staff concluded, therefore, that the Geronimo System has a total of
27 77 active meters (66 in Geronimo Estates and 11 in Elusive Acres).

28 14. Based on the eight months of available water usage data available at the time of the

1 Staff Report, Staff determined that the 77 active connections have a peak use of approximately 0.17
2 gallons per minute ("gpm"). For the current 77 active connections, Staff calculated a total peak use
3 demand of 13.31 gpm. Based on the combined production capacity from the Company's two wells of
4 16 gpm⁴, Staff concluded that the system could serve approximately 92 connections⁵.

5 15. The WPFDD prepared an exhibit (WPFDD Ex. 1) that purported to show that the existing
6 Geronimo system wells were significantly underutilized, and that the Elusive Acres well is capable of
7 producing an additional 131,586 gallons per month, enough to serve 73 new connections. The
8 WPFDD also prepared an exhibit (WPFDD Ex. 2) that listed a number of persons in the Geronimo
9 Estates subdivision and the claimed capacity of each of the wells drilled by those individuals (ranging
10 from 1.0 gpm to 7.0 gpm).

11 16. Staff witness Steve Olea challenged the conclusions reached in the WPFDD exhibits.
12 With respect to WPFDD Exhibit 1, Mr. Olea testified that the calculations are based on a monthly
13 average availability rather than a peak-day demand, which Staff asserts is the correct method of
14 designing and analyzing available system capacity (Tr. 167). Mr. Olea also discounted the usefulness
15 of WPFDD Exhibit 2 because the list of individual wells does not include data regarding whether the
16 alleged capacity of the wells is based on the original driller's estimate, the owner's experience at the
17 time of drilling, or simply an estimate of current capacity (Tr. 176).

18 17. During cross-examination of Company President Mr. Hardcastle, the WPFDD
19 introduced a page from Payson Water's 2004 Annual Report to the Commission which shows a
20 reported pump yield for the Elusive Acres well of 24.1 gpm (compared to the claimed capacity of 10
21 gpm in this proceeding) and a pump yield of 36.6 gpm for the Geronimo Estates well (compared to
22 the claimed capacity of 6 gpm in this proceeding) (WPFDD Ex. 4). Mr. Hardcastle's explanation for
23 this seeming discrepancy is that the data in the Annual Report does not indicate when during 2004 the
24 measurements were taken and the pump yield could fluctuate dramatically during the course of the

25 ⁴ According to the Staff Report, Staff observed during its October 28, 2005 site visit that the Company's wells were
26 pumping at a combined rate of almost 24 gpm. However, Staff cautioned that based on the history of the system, Staff
does not believe that this higher pumping rate can be sustained for a prolonged period of time, especially in the summer
months (Ex. S-1, at 2).

27 ⁵ In a previous Staff Report issued November 15, 2004, and as discussed in Decision No. 67747, Staff determined based
28 on the data available at that time that it appeared the Geronimo System could serve no more than approximately 88 total
connections (*Id.*).

1 year (Tr. 228-232).

2 Staff's Proposed Options

3 15. Based on its analysis, Staff indicated that several options are available to the
4 Commission with respect to the current moratorium. The options cited by Staff are as follows:

- 5 a) Keep the total moratorium in effect and allow no more than the
6 existing 83 connections (both active and inactive) until the
7 Geronimo System finds an additional reliable water source(s);
- 8 b) Allow up to 88 total connections as stated in the November 15,
9 2004 Staff Report (in Docket No. W-01993A-04-0428), while
10 assuming that the six inactive connections could become active at
11 any time, thereby allowing five additional 5/8 inch x 3/4 inch
12 connections;
- 13 c) Allow up to 88 active connections while assuming that the 6
14 inactive connections will not become active any time soon (based
15 on the fact that there are currently no building structures on these
16 properties), thereby allowing 11 additional active 5/8 inch x 3/4 inch
17 connections;
- 18 d) Allow up to 92 total connections to the system while assuming that
19 the 6 inactive connections could become active at any time,
20 thereby allowing 9 additional 5/8 inch x 3/4 inch connections; or
- 21 e) Allow up to 92 active connections to the system while assuming
22 that the 6 inactive connections will not become active any time
23 soon, thereby allowing 15 additional 5/8 inch x 3/4 inch
24 connections.

25 16. Staff recommended that, regardless of the option chosen by the Commission, the
26 WPFDD request for a 5/8 inch x 3/4 inch meter connection should be granted subject to water usage
27 being confined to the limited purposes outlined in the application filed in this docket. As described in
28 the application, the water meter for the fire station would be "installed to supply a regular hose bib ...
to be able to hose off steps of fire trucks (to avoid slip injuries) and to be able to wash hazardous
chemicals and blood off our professional firefighters after they make emergency medical calls. We
are not requesting water to fight fires or to refill our tender trucks, just seeking to protect our staff and
equipment that frequently responds in snow, mud, and serious medical situations" (Ex. S-1, at 1).

17. Staff also recommended that at least 12 months of consistent water system data is

1 needed (as ordered in Decision No. 67747) before a final decision on the moratorium is made. At the
2 hearing, Mr. Olea testified that the 12-month water usage data study period, which would currently
3 end in May 2006, should be extended through at least September 2006 in order to capture an
4 additional period of summer usage and supply (Tr. 204-205).

5 18. With respect to the five options listed in the Staff Report, Staff recommended that if
6 the Commission wishes to allow further connections (in addition to the WPFd) it believes the system
7 could support either Option B or D. As indicated above, Option B would permit service to the WPFd
8 plus 4 additional connections, while Option D would allow the WPFd plus 8 additional connections.
9 Under either option, Staff recommends that the WPFd be given first priority (Ex. S-1, at 2-3).

10 **Process for New Connections**

11 19. Staff further recommended that, if additional connections are allowed on the system,
12 such connections should be made on a first-come, first-served basis and new customers should be
13 required to obtain a building permit from Gila County within 45 days⁶ for a permanent residential
14 dwelling unit or face removal of the meter.

15 20. At the hearing, Mr. Olea described Staff's proposal as being comparable to the process
16 currently in place for Pine Water Company (except that Pine Water allows up to two new connections
17 per month). He indicated that the first-come, first-served policy should be based on actual requests
18 being made to the Company for service, and would not exclude residents with existing homes or
19 building permits who were forced to build their homes with alternative sources of water (*i.e.*, drilling
20 an individual well and/or using a cistern system). Thus, under Staff's recommendation, Payson
21 Water would be required to offer a meter to persons in order of prior requests, based on a review of
22 its records of prior requests for service.

23 **Obligation to Search for Additional Sources of Water**

24 21. Staff's final recommendation is that Payson Water be required to immediately begin
25 searching for new water sources. Staff indicated that the WPFd had identified two potential sources
26 of water which are located approximately two miles from the Geronimo system service area, at the

27 ⁶ At the hearing (Tr. 168), Mr. Olea agreed to revise Staff's recommendation to allow 90 days to obtain a building permit
28 in accordance with a request made by Gila County's Community Development Director (*See*, Letter from Joe Mendoza
filed February 1, 2006).

1 Camp Geronimo Boy Scout Camp and Bray Creek Ranch. The Staff Report also mentioned that the
2 Geronimo Estates Property Owners Association Group may be interested in purchasing the Geronimo
3 system from Payson Water.

4 22. Although the Company does not oppose Staff's recommendation, Mr. Hardcastle
5 testified that a 2005 report prepared by consultants for Pine Water Company (in Docket No. W-
6 03512A-03-0279) investigated the possibility of obtaining water from Camp Geronimo and Bray
7 Creek Ranch for both Pine Water and Payson Water's Geronimo system. Mr. Hardcastle stated that
8 the estimated cost from either source would be at least \$400,000 to \$500,000 to construct a pipeline
9 to the Geronimo system. He concluded that it was not economically feasible to pursue water from
10 those sources because cost recovery from the small number of Geronimo system customers would
11 likely require an increase in rates of several times more than customers are paying currently (Tr. 209-
12 212).

13 Resolution

14 23. Based on the record before us, we believe that the WPFDD's request for a 5/8 inch x 3/4
15 inch service connection should be granted in accordance with the limited purposes set forth in the
16 application and as described at the hearing. We will also modify the current moratorium consistent
17 with Staff's proposed Option D, which will permit an additional 8 connections to the system. The
18 availability of the 8 additional connections shall be limited to lots where a main currently exists to
19 serve those lots. As recommended by Staff, new connections should be honored in the order that is
20 approved by Staff, subject to the new customers obtaining a building permit from Gila County within
21 90 days for a permanent residential dwelling unit. The Company should create a waiting list. The
22 Company should work with Staff to ensure that the service requests are accommodated, and waiting
23 lists are maintained, in a nondiscriminatory manner by submitting its method for accomplishing all
24 this to Staff, within 30 days of this Decision, for Staff's approval.

25 24. We also agree that it is prudent to adopt Staff's recommendation to extend the water
26 system usage data study period ordered in Decision No. 67747 through September 2006 in order to
27 capture an additional period of summer usage and supply. This additional study period will enable
28 Staff to analyze whether there is sufficient water available to further modify the moratorium.

1 25. We further direct Payson Water to immediately begin searching for new water sources
2 for its Geronimo system. For purposes of providing guidance, we expect the Company to submit a
3 report in this docket no later than December 31, 2006, including supporting documentation,
4 addressing, at a minimum: the pump yield discrepancy raised by WPF Ex. 4; the feasibility and cost
5 estimate of drilling one or more shallow wells in or around the Geronimo system to bolster the
6 existing limited water sources; the feasibility and cost estimate of drilling a deeper well or wells in
7 the Geronimo system area as a means of obtaining a more reliable permanent source; and any other
8 alternatives that may be available as a means to provide service to all requesting customers in the
9 Company's CC&N area.

10 26. We are aware that a moratorium creates a disincentive for companies to seek new
11 sources of water and is inconsistent with a public service corporation being required to serve
12 requesting customers in its CC&N area. However, a public service corporation with an exclusive
13 service area should not be permitted to rely on the existence of a moratorium as a means of avoiding
14 in perpetuity pursuit of new sources of water where additional demand clearly exists. We recognize
15 that a balancing of interests is necessary to prevent saddling current customers with unreasonable
16 rates while at the same time recognizing the Company's obligation to attempt to serve new
17 customers. This balancing of interests is at times difficult because it pits the interests of existing
18 customers against those individuals who wish to make full use of their property by securing water
19 service from the certificated provider at a reasonable rate. First and foremost, however, we must
20 ensure that existing customers are provided reliable service at just and reasonable rates until the issue
21 of whether additional sources of water are available to the Geronimo system in an economically
22 feasible manner is resolved.

23 CONCLUSIONS OF LAW

24 1. Payson Water is a public service corporation within the meaning of Article XV of the
25 Arizona Constitution and A.R.S. §§40-201, 40-202, and 40-203.

26 2. The Commission has jurisdiction over Payson Water and the subject matter of the
27 application.

28 3. Modification of the moratorium on additional service connections for Payson Water's

1 Geronimo System, to allow a service connection for the WPF and 8 additional customers at this
2 time, pursuant to Staff's recommendations and as discussed herein, is reasonable and in the public
3 interest under the facts and circumstances presented herein.

4 4. Staff's recommendation to require Payson Water to extend the system monitoring
5 analysis of the Geronimo System through September 2006 prior to authorization by the Commission
6 of additional service connections is reasonable and should be adopted.

7 **ORDER**

8 IT IS THEREFORE ORDERED that Payson Water Co., Inc. is hereby authorized to provide a
9 service connection to the Whispering Pines Fire District and to eight additional customers in the
10 Geronimo Estates and Elusive Acres subdivisions, as part of the Geronimo System, conditioned on
11 compliance with the recommendations set forth in the Staff Report and as discussed herein.

12 IT IS FURTHER ORDERED that new connections shall be honored in the order that is
13 approved by Staff, subject to the new customers obtaining a building permit from Gila County within
14 90 days for a permanent residential dwelling unit. The Company shall create a waiting list, and work
15 with Staff to ensure that the service requests are accommodated, and waiting lists are maintained, in a
16 nondiscriminatory manner by submitting its method for accomplishing all this to Staff, within 30
17 days of this Decision, for Staff's approval.

18 IT IS FURTHER ORDERED that Payson Water Co., Inc. is directed to continue to conduct a
19 system monitoring exercise through September 2006, and to submit the following data based on that
20 study: monthly static water levels from both wells; number of gallons pumped per month from each
21 well; number of gallons sold per month; and number of active and inactive connections per month.
22 The system monitoring report shall be filed with Docket Control within 30 days following
23 completion of the monitoring exercise.

24 IT IS FURTHER ORDERED that no additional new service connections shall be permitted on
25 the Geronimo System until the data is received and reviewed by Staff, and an Order is issued by the
26 Commission allowing additional service connections, unless otherwise ordered by the Commission.

27 IT IS FURTHER ORDERED that Payson Water Co., Inc. shall immediately begin searching
28 for new water sources for its Geronimo system and shall submit a report in this docket no later than

1 December 31, 2006, including supporting documentation, addressing, at a minimum: the pump yield
 2 discrepancy raised by WPF D Ex. 4; the feasibility and cost estimate of drilling one or more shallow
 3 wells in or around the Geronimo system to bolster the existing limited water sources; the feasibility
 4 and cost estimate of drilling a deeper well or wells in the Geronimo system area as a means of
 5 obtaining a more reliable permanent source; and any other alternatives that may be available as a
 6 means to provide service to all requesting customers in the Company's CC&N area.

7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

9
10
11 *Jeffrey M. Hatch-Miller*
12 CHAIRMAN

William Miller

COMMISSIONER

13
14
15 *Michael A. ...*
16 COMMISSIONER

Lance ...
COMMISSIONER

R. M. ...
COMMISSIONER

17
18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
19 Director of the Arizona Corporation Commission, have
20 hereunto set my hand and caused the official seal of the
21 Commission to be affixed at the Capitol, in the City of Phoenix,
22 this 5th day of May, 2006.

23
24 *Brian C. McNeil*
25 BRIAN C. McNEIL
26 EXECUTIVE DIRECTOR

27
28 DISSENT _____

DISSENT _____

DDN:mj

SERVICE LIST FOR:

PAYSON WATER COMPANY

DOCKET NO.:

W-03514A-05-0729

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c/o Brooke Utilities, Inc.
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Harry D. Jones
Whispering Pines Fire District
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W-035141

Brooke Utilities, Inc.

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Customer Call Center • P.O. Box 9005 • San Dimas, California 91773-9016 • (800) 270-6084

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AZ CORP COMMISSION
DOCUMENT CONTROL

ROBERT T. HARDCASTLE
(661) 633-7526
Fax (781) 823-3070
RTH@brookeutilities.com

June 12, 2006

Steve Olea
Assistant Director, Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Re: **Payson Water Co., Inc. Compliance Recommendation Pursuant to
Decision No. 68696 dated May 5, 2006; Docket No. W-035144-05-0729**

Dear Mr. Olea,

The Commissioners of the Arizona Corporation Commission (the "Commission") executed the above Decision No. 68696 (the "Decision") on May 5, 2006 requiring Payson Water Co., Inc. ("PAWCo.") to submit a non-discriminatory method of allocating eight additional water meters at it's Geronimo Estate water system (the "Water System") which is comprised of the Geronimo Estates and Elusive Acres subdivisions. PAWCo. has timely and seriously considered this matter at length and hereby proposes the allocation methodology below for consideration by the Utilities Division Staff.

We should be reminded that the Decision provided for two additional qualifying criteria of all customers allocated meters in the Water System. These criteria included:

- (a) "limited to lots where a [water] main currently exists to serve those lots". (see Decision No. 68696, page 10, Resolution No. 23, lines 18-19 and the first Ordering paragraph page 12, line 11).
- (b) "subject to new customers obtaining a building permit from Gila County within 90 days for a permanent residential dwelling unit." (see Decision No. 68696, second Ordering paragraph, lines 13-14).

In consideration thereof, PAWCo. makes the following prioritized recommendation for allocation of eight additional water meters in the Water System subject to Staff's comments and modifications:

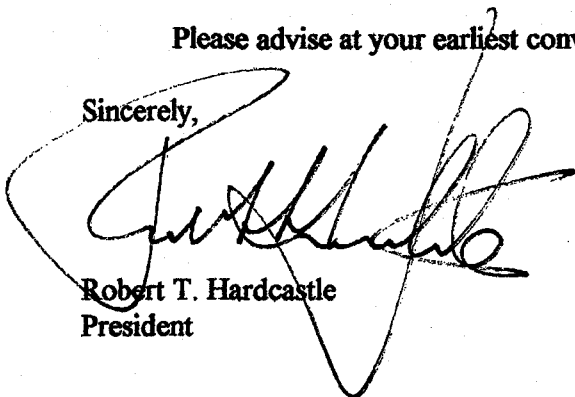
- (1) **First Classification:** Current property owners within the Water System that brought applications for variance from the existing meter moratorium, as provided in Decision No. 67747, and were denied variance relief because of a decision of the Commission. To the best of our belief property owners Prahin and Dunne are included, and possibly others, in this classification.
- (2) **Second Classification:** Existing full-time resident property owners within the Water System that are not current customers of PAWCo. This classification would also include property owners that currently have residential dwellings under construction and intend to reside in their dwellings as full-time residents. To the best of our belief property owner Swanson is included, and possibly others, in this classification. We recommend that existing full-time resident or construction status be established by declaration of the individual property owner.
- (3) **Third Classification:** Existing full-time resident property owners within the Water System that were recognized as Interveners in Docket No. W-03514A-05-0729 and are not included in a higher Classification.
- (4) **Fourth Classification:** If the prior Classifications do not fully allocate all water meters, the last Classification would provide for all other current property owners within the Water System, not included in a higher Classification, prioritized by chronological date of property ownership with longest property ownership prioritized highest and shortest property ownership prioritized lowest. We recommend that property ownership be evidenced by deed or other equivalent public record attesting to this fact. We recommend that a general customer mailing would notify these property owners of the opportunity of receiving a water meter subject to the Decision requirements and the recommendations made herein.

PAWCo. is confident that adoption of these recommendations will fully allocate all approved water meters to the Water System.

In accordance with the Decision requirements of Resolution 23, at page 10, lines 21-24, we await Staff's earliest convenient comments or further discussion of these recommendations. It should also be noted that the captioned Applicant in this Docket has not yet made application for the water meter approved by the Decision.

Please advise at your earliest convenience so that this matter may be concluded.

Sincerely,



Robert T. Hardcastle
President

Steve Olea
Docket No. W-03514A-05-0729
Page 3

cc:

RTH correspondence file
MJ, SS
Jay Shapiro, Esq.

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Steve Olea
Docket No. W-03514A-05-0729
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AZ CORP COMMIS
DOCUMENT CONT.Payson Water Co., Inc
Compliance ReportDocket No.
ACC Decision
Date of Decision
Report Month & Year
Report Required
Report NumberW-03514A-05-0729
68696
5-May-06
May-06
May 2006- September 2006
1 of 5Previous Docket Number W01993A-04-0428
Previous ACC Decision 67747

Production	Well Location	DWR #	Static Level	Gallons Pumped
	GE	55-621336	21.2'	21,820
	EA	55-515318	53.7'	141,800
	Total			163,620

Customer Consumption

Total Customer Consumption 152,920

Customer Count

Open Accounts with Usage	48
Open Accounts without Usage	26
Open Accounts with Usage Credit	0
Installed Meters- no Current Account Holder	9
Removed duplicate service location (Note 1)	-1
Listed Properties with No Meter Installed, No Open Account (Note 2)	1
Pending service installation for Whispering Pines Fire Dept per ACC Order	1

Total 84

Note 1: Corrected service location for meter found on 11-28-05. Existing customer using meter, but service location data was incorrect causing records duplication. See also January 2006 report.

Note 2: Previous reports indicate two (2) properties, GE U3 L3 and GE U3 L57, were properties categorized as "Listed properties with no meter installed, no open account". Per property owner's request, a meter was re-installed at GE U3 L57 in April 2006.



Memorandum

Date: September 5, 2006

To: Property Owners: Geronimo Estates and Elusive Acres Payson, AZ

From: Payson Water Co., Inc.

Re: Arizona Corporation Commission Decision No. 68696 dated May 5, 2006

Pursuant to the above referenced Decision, and a request from the Commission's Staff, this Memorandum is being sent to property owners within Payson Water Co.'s Geronimo Estates and Elusive Acres water systems for the purpose of notifying you of pertinent sections of the above referenced Decision. Among other things the Decision provided for the additional installation of eight (8) water meters in these water systems despite the existence of a long standing moratorium prohibiting water meter installations. One of the conditions of this Decision was that these installations were "limited to lots where a water main currently exists". The Decision required that Payson Water Co. must create a water meter waiting list and submit its recommendation for allocation of the eight water meters to the Commission's Staff within thirty days of the Decision. Accordingly, Payson Water Co. submitted its recommendation to Staff on June 1, 2006. On July 12, 2006 Staff replied to Payson Water Co.'s recommendation with some modifications and guidelines.

The meter allocation process adopted by Commission Staff provided that: (1) meters should be first allocated to applicants previously seeking variances to the meter moratorium that had been denied variances by the Commission in prior decisions; (2) meters should be secondarily provided to existing property owners within the water system that are not current customers of Payson Water Co. and have not previously requested service; and (3) if the eight water meters are not fully allocated after the prior two classifications, all remaining property owners would be eligible for water meter allocation based on chronological order of property ownership with longest property ownership prioritized highest. The Decision also provided for other general requirements like evidence of property ownership documentation and building permit issuance. The Decision provided that Payson Water Co. will maintain a waiting list of other property owners who desire a water meter that did not receive a water meter under the Decision. This list has been established on a first-come first-serve basis for customers wanting to be included in the event future water meters are allocated.

Quickly following the Decision date, and prior to the issuance of Staff's guidelines, a waiting list of Payson Water Co. customers wanting to receive one of the eight allocated water meters began. Soon thereafter, more than eight requests for water meters were received pursuant to the classification guidelines above. These customers properly and timely complied with the Decision requirements and some of these meters have already been installed.

In this regard, Payson Water Co. property owners in Geronimo Estates and Elusive Acres that desire a future water meter, in the event the Commission approves more installations, can contact the Call Center at (800) 270-6084 and place their name on the Payson Water Co Meter Waiting List.